REMARKS

I. Status of the Application

The Non-Final Office Action of October 20, 2004, has been received and its contents carefully noted. Claims 1, 2, 4-5, and 7 are pending, of which, claims 10-11 and 14-22 have been withdrawn from consideration. Claim 1 has been amended to include the limitations of claim 9 and claim 9 has been canceled. Support for this amendment can be found on page 12, lines 24-34, and original claims. No new matter has been added. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Filed concurrently herewith is a Request for a Three Month Extension of Time which extends the shortened statutory period of response to April 20, 2004. Accordingly, Applicants respectfully submit that this response is being timely filed. Applicant's amendments and arguments filed on August 3, 2004 have been fully considered.

II. Rejections under 35 U.S.C. § 102(b)

As stated on page 3 of the Office Action, claims 1, 2, 4, 5, 7, and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by "Synthesis of 2-Methoxydibenzo [b,f](1,4) - Thiazepin-11(10H)-One-5,5-Dioxide issued to Benett, *et al.* ("Benett"). This rejection is traversed for at least the reasons advanced below.

Independent claim 1 has been amended to include limitations recited in claim 9. Specifically, claim 1 has been amended to recite "wherein the step of reacting the nitrobenzene compound of formula (1) with the thiosalicylic acid compound of formula (2) is conducted in a solvent selected from the group consisting of water, amide solvents, aliphatic alcohols, ketones, and nitriles." This amendment is directed towards specifying that the first reaction step for reacting the nitrobenzene compound (1) and the thiosalicyclic acid compound (2) is performed in a specific polar solvent, which is not taught by Benett. Rather, Benett is directed towards reacting the methylester of thiosalicylic acid compound with the nitrobenzene compound in a non-polar xylene solvent.

Moreover, the process of independent claims 1 and 5 comprises three (3) steps for the preparation of the dibenzothiazepine from a thiosalicylic acid compound of the formula (2). For example, the thiosalicylic acid compound is directly reacted with the nitrobenzene compound of the formula (1). This is simply not taught by Benett. Additionally, the first

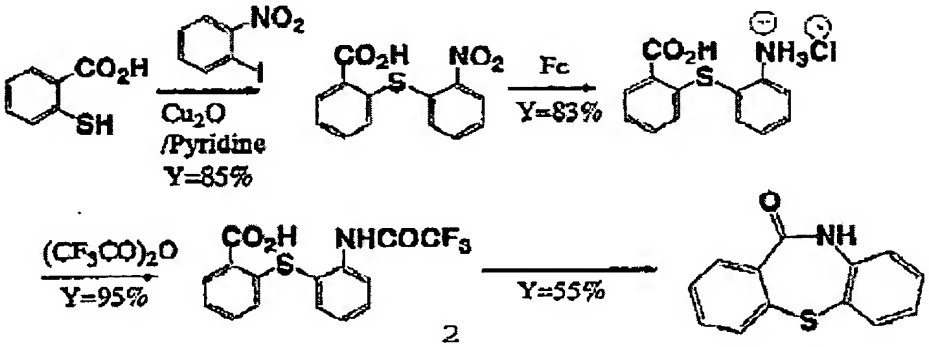
step proceeds to give the desired compound in a prominently high yield, such as, 90% or higher. By way of illustration only, the examples in the specification have the following yields: 98% (Example 1), 90% (Example 2), 98% (Example 3), 90% (Exampled 4), 96% (Example 5), 94% (Example 6), 96% (Example 7), and 97% (Example 8).

In contrast, Benett comprises five (5) steps for the preparation of the dibenzothiazepin from a thiosalicylic acid compound of the formula III. The nitrobenzene compound is reacted with a methylester of the thiosalicylic acid compound which is derived from the thiosalicylic acid compound. *See* Scheme illustrated on page 287. Additionally, the yield of the compound (V) is only 68%. *See* page 291. The yield from the thiosalicylic acid compound (III) to the compound (V) is 57% (68% x 84%, 84% for the esterification of the thiosalicylic acid compound to obtain the compound (IV)). *See* page 290.

Accordingly, Applicants respectfully request that the rejection of claims 1, 2, 4, 5, and 7 under 35 U.S.C. § 102 be withdrawn.

As stated on pages 3-4 of the Office Action claims 1, 2, 4, 5, 7 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kuti, et al. ("Kuti"), Phosphorus, Sulfur and Silicon. This rejection is traversed for at least the reasons advanced below.

Claims 1 and 5 are allowable over Kuti. As described above, these claims are directed to a process comprising three (3) steps for the preparation of the dibenzothiazepine from a thiosalicylic acid compound of the formula (2). In contrast, the Kuti process comprises four (4) steps for the preparation of the dibenzothiazepine from a thiosalicylic acid compound 11. The Kuti process is illustrated below:



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For at least these reasons Kuti does not teach or suggest the features of independent claims 1 and 5. Clearly, the claimed invention is advantageous over the Kuti process by minimizing the number of process steps. Also, the process is advantages in the yield of the first step in which the thiosalicylic acid compound is reacted with a nitrobenzene compound.

Accordingly, Applicants respectfully request that the rejection of claims 1, 2, 4, 5, and 7 under 35 U.S.C. § 102 be withdrawn.

III. Rejections under 35 U.S.C. § 103

As stated at pages 4-5, claims 1, 2, 4, 5, 7 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Benett. Claims 1, 2, 4, 5, 7 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuti. These rejections are traversed for at least the reasons advanced below.

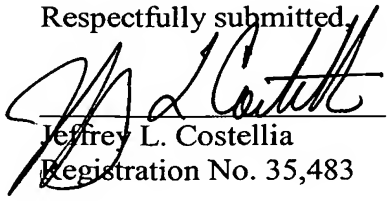
As is explained above, Benett and Kuti fail to teach or suggest all the features of independent claims 1 and 5. Also, the claimed process is advantageous over the Benett process and Kuti process with respect to number of the steps involved in the process starting from the thiosalicylic acid compound to the target compound and further the yield of the first step in which the thiosalicylic acid compound is reacted with a nitrobenzene compound.

Accordingly, Applicants respectfully request that the rejections of claims 1, 2, 4, 5, and 7 under 35 U.S.C. § 103 be withdrawn.

IV. Conclusions

In view of the foregoing, it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, that claims 1, 2, 4, 5, and 7 be allowed and that the application be passed to issue. If a conference would expedite prosecution of the instant application, the Examiner is hereby invited to telephone the undersigned to arrange such a conference.

Respectfully submitted,



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